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VIA ECF

The Honorable Nusrat J. Choudhury
100 Federal Plaza, Courtroom 1040
Central Islip, NY 11722

**Re: Caccavale, et al. v. Hewlett-Packard Company, et al.
Civil Action No. 20-cv-974 (NJC)(ST)**

Dear Judge Choudhury:

Defendants HP Inc. and Hewlett Packard Enterprise Company (“Defendants”) write in response to the Court’s Order of June 10, 2024 directing the parties to “address[] when it is anticipated that the Supreme Court of New York, Appellate Division, Second Department will reach a decision on the pending, unopposed motion for leave to appeal the decision in *Grant*” That motion was filed on February 14, 2024 and the *Grant* defendant’s March 11, 2024 response did not oppose the plaintiff’s motion for leave to appeal. Defendants are unable to predict with exact certainty when the Second Department will decide the *Grant* plaintiff’s motion but, inasmuch as it has been pending for approximately 4 months (and fully briefed for approximately 3 months), they believe it is reasonable to expect a decision soon. Waiting for the Second Department’s decision will not prejudice Plaintiffs because they have been paid all of their wages. Further, the existence of a conflict between *Vega* and *Grant* “substantially bolsters the prospects that the Second Department will grant the motion for leave to appeal.” *See Urena v. Sonder USA Inc.*, No. 22 Civ. 7736 (VM), 2024 WL 1333012, *2 (S.D.N.Y. Mar. 28, 2024).¹

¹ Another Court has entered the stay Defendants seek here. *See Calixte v. Bioreference Labs., Inc.*, 1:24-00083-AMD-VMS (E.D.N.Y) at May 8, 2024 Order (“The defendant’s motion to stay is

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Thank you for your attention to this matter.

Respectfully submitted,

/s/ Kristofor T. Henning

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cc: Counsel of record via ECF

granted pending a decision on the application for leave to appeal to the New York Court of Appeals in *Grant* If leave to appeal is granted, the proceedings are stayed until the New York Court of Appeals issues a decision.”).